

Retiree Activities Office

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RAO Newsletter #2012-11 - September 6, 2012 - Survivor Benefit Plan (SBP) and Divorce

SURVIVOR BENEFIT PLAN (SBP) AND DIVORCE: If a retired member with SBP divorces, his/her spouse ceases to be a covered beneficiary as of the date the divorce is final. The coverage and payment of premiums is suspended upon notification to DFAS. However, there are several possibilities the retiree and former spouse need to be aware of to avoid serious problems.

(1) Coverage of a Former Spouse (FS) is not mandated in law but may be directed as part of the divorce settlement. The court order must refer to the SBP specifically and not just be a general statement such as “that the FS shall be eligible to receive the member’s retirement benefits”. In addition to the requirement that the decree clearly identify the SBP specifically, a signed election request must be submitted by the service member to DFAS before the first anniversary date of the divorce. If the member fails or refuses to submit the decree and election request, the FS may do a “deemed election” by submitting a written request to DFAS before the first anniversary date. This rule is strictly adhered to. If the deadlines are not made it will be almost impossible to provide coverage to a FS regardless of the court order. Several Former Spouses found they were not covered because of failure to meet the deadline and even a letter to one’s Congressman cannot negate this provision of the law.

(2) If coverage is not ordered by the court, a voluntary FS election may be made with the member requesting a change of status from spouse to Former Spouse within the one year time limit.

(3) If neither a court order or voluntary election is made the SBP is suspended but is automatically resumed on the first anniversary date of a remarriage unless the member indicates in writing that he/she does not wish to resume coverage.

(4) If the FS who is the beneficiary remarries before the age of 55, coverage is suspended but may be resumed if the subsequent marriage is terminated by death or divorce.

(5) As long as a FS beneficiary is alive, the member may not name a current spouse as beneficiary unless in a voluntary election, the FS waives the benefit in writing. This article covers only the highlights. It is strongly recommended that any retiree contemplating or involved in a divorce obtain more information at www.retirees.af.mil, although this is an Air Force website the information is applicable to all services.